

PATENT COOPERATION TREATY

PCT

REC'D 20 MAY 2005

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

13 MAY 2005

Applicant's or agent's file reference M86.13-0005	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPBA/416)	
International application No. PCT/US03/27852	International filing date (day/month/year) 05 September 2003 (05.09.2003)	Priority date (day/month/year) 13 November 2002 (13.11.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): A01K 29/00 and US Cl.: 119/710		
Applicant PREMIER PET PRODUCTS, LLC		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

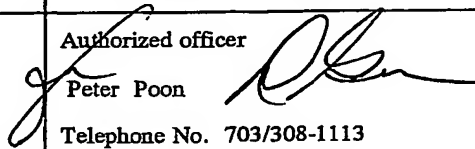
☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the

PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 28 May 2004 (28.05.2004)	Date of completion of this report 12 April 2005 (12.04.2005)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  Peter Poon Telephone No. 703/308-1113

Form PCT/IPBA/409 (cover sheet)(July 1998)

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US03/27852

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed.
- ☒ the description:
pages 1-19 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the claims:
pages 21-23, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages 20 and 24, filed with the letter of 10 January 2005 (10.01.2005)
- ☒ the drawings:
pages 1-8, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>3, 4, 7, 9-18</u>	YES
	Claims <u>1, 2, 5, 6, 8, 19-22</u>	NO
Inventive Step (IS)	Claims <u>3, 4, 7, 12-18</u>	YES
	Claims <u>1, 2, 5, 6, 8-11, 19-22</u>	NO
Industrial Applicability (IA)	Claims <u>1-22</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Please See Continuation Sheet

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

V. 2. Citations and Explanations:

Claims 1, 2, 5, 6, 8 lack novelty under PCT Article 33(2) as being anticipated by Beck. The buck lure 10 of Beck includes first concave molded member 14, second concave molded member 12, first center hub in the form of a male fastener 50, second center hub 18 with a female fastener 30, and cavities encompassed by the interiors of molded members 12, 14, as well as a collective, single volume of space when the molded members 12, 14 are disposed together (see Figure 1 of Beck). An animal treat could be placed within the individual cavities formed by the molded members 12, 14 so as to form at least one treat-retaining cavity, or the members 12, 14 could be screwed together to clamp an animal treat between them. With respect to claim 1, the Beck lure is capable of functioning as a pet toy inasmuch as it is small and portable enough to be grasped and played with by an animal; moreover, when the Beck lure is in its open (Figure 2) disposition, a pet could interact with one or the other of the cavities formed by the molded members. As to claim 14, the liquid-impregnated cotton 36 is deemed to constitute a treat.

Claims 9-11 lack an inventive step under PCT Article 33(3) as being obvious over Beck. Although the composition of male fastener 50 of Beck is not disclosed, use of a material-such as nylon-different from that comprising the members 12, 14 would have been obvious to one skilled in the art wishing to reduce construction costs of the lure, increase durability, and minimize the potential for jamming while the male fastener 50 is turned relative to female fastener 30.

Claims 19-22 lack novelty under PCT Article 33(2) as being anticipated by Petit. The feeder 10 of Petit includes an edible, toroidal body 22 in the form of a doughnut. It is considered to comprise a plurality of edible pieces adhered together by binding constituents of the dough. As to claims 19, 22, elements of the treat-retaining toy have not been given weight inasmuch as these claims are drawn to the treat itself and not the toy-the latter is recited only functionally in the preamble of claim 19.

Claims 3, 4, 7, 12, 13 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a pet toy having (1) first and second concave members and a fastener extending between them, with the first and second members having arcuate notches on peripheral edges or (2) first and second concave members with first and second hubs, wherein a threaded fastener threadably engages both the first and second center hubs or (3) first and second concave members, with a first center hub having a plurality of defined seat portions and a second center hub having a ledge portion able to fit in each seat portion.

Claims 14-18 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a method for entertaining an animal wherein the method comprises providing a first concave-shaped molded member and a second concave-shaped member that together form a treat-retaining cavity between them; placing a treat in the treat-retaining cavity; fastening the members with a fastener such that a peripheral edge of the first molded member is a selected distance from a peripheral edge of the second member to form a pet toy, with the fastener extending centrally through both cavity and treat; and giving the resulting pet toy to the animal.

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Claims 1-22 meet the criteria set out in PCT Article 33(4), and thus possess industrial applicability because the subject matter claimed can be made or used in industry.

NEW CITATIONS

US 2,959,354 A (BECK) 08 November 1960 (08.11.1960), see column 2, lines 10-46.
US 5,076,214 A (PETIT) 31 December 1991 (31.12.1991), see column 2, lines 60-67.

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an outer diameter not greater than the first diameter;

an inner diameter forming a center opening of the body not smaller than the second diameter; and

a thickness at the outer diameter not greater than the minimum height of the treat-retaining cavity,

so that the treat can be placed in the treat-retaining cavity without deforming the toy.

20. The treat of claim 19, wherein the toroid comprises:

a plurality of edible pieces; and

an edible binder configured to adhere the plurality of edible pieces together.

21. The treat of claim 19, wherein the binder is broken down by saliva prior to the plurality of edible pieces being broken down.

22. The treat of claim 21, wherein the center opening receives the fastener so that the treat nests between the first and second members.

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WHAT IS CLAIMED IS:

1. A non-consumable pet toy comprising:
 - a resilient first concave-shaped molded member having a first peripheral edge;
 - a resilient second concave-shaped molded member having a second peripheral edge, the first and second concave-shaped members defining a treat-retaining cavity between them that a pet can at least partially interact with; and
 - a fastener extending through the treat-retaining cavity and fastening the first concave-shaped member to the second concave-shaped member such that the first peripheral edge is selectably spaced from the second peripheral edge.
2. The non-consumable pet toy of claim 1, wherein the fastener is adjustable relative to at least one of the first and second members to permit selection of the space between the first peripheral edge and the second peripheral edge.
3. The non-consumable pet toy of claim 1 and further comprising a first arcuate notch on the first peripheral edge of the first member and a second arcuate notch on the second peripheral edge of the member.
4. The non-consumable pet toy of claim 3, wherein the first arcuate notch can be aligned with the second arcuate notch to form an opening to the treat-retaining cavity.

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